

Order

Michigan Supreme Court
Lansing, Michigan

September 19, 2014

Robert P. Young, Jr.,
Chief Justice

148861

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 148861
COA: 318589
Lapeer CC: 12-011204-FH

JOHN ADAM DYER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the January 9, 2014 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Lapeer Circuit Court to permit defendant to withdraw his plea. MCR 6.310(A) provides a defendant the unqualified right to withdraw a plea that has not been accepted on the record. At no time prior to sentencing did the trial court accept defendant's plea on the record. Further, we REMAND this case to the Lapeer Circuit Court for correction of the judgment of sentence. In particular, if defendant chooses not to withdraw his plea of guilty, it appears that there was a \$350 overpayment to defendant's trial counsel based on this Court's review of the November 30, 2012 and March 8, 2013 trial court orders authorizing payment of attorney's fees. However, if defendant withdraws his plea, imposition of attorney fees is not appropriate at this time. A court may not impose upon defendant the expenses of providing his legal assistance until defendant is found guilty, enters a plea of guilty, or enters a plea of nolo contendere. MCL 769.1k(1)(b)(iii).



h0916

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 19, 2014


Clerk